

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>6/13/08</u>
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 TRUSTEES OF THE 1199/SEIU GREATER NEW :
 YORK BENEFIT FUND, TRUSTEES OF THE :
 1199/SEIU GREATER NEW YORK PENSION :
 FUND, TRUSTEES OF THE 1199/SEIU GREATER :
 NEW YORK EDUCATION FUND, TRUSTEES OF :
 THE 1199/SEIU GREATER NEW YORK CHILD :
 CARE FUND, TRUSTEES OF THE 1199/SEIU :
 GREATER NEW YORK JOB SECURITY FUND, and :
 THE TRUSTEES OF THE 1199/SEIU GREATER :
 NEW YORK WORKER PARTICIPATION FUND, :

Plaintiffs, :

-v- :

KINGSBRIDGE HEIGHTS REHABILITATION CARE :
 CENTER, :

Defendant. :

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07 Civ. 9744 (DLC)

ORDER

DENISE COTE, District Judge:

Following an April 9, 2008 conference, the parties were given a schedule to address defendant's application to dismiss this action for lack of subject matter jurisdiction. In its April 30 submission, the defendant argued that the action should be dismissed with prejudice because jurisdiction over these issues resided exclusively with the NLRB, and that plaintiffs should be sanctioned for filing this action.

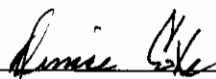
In its May 16 reply, defendant acknowledges that the NLRB and this Court have concurrent jurisdiction over at least some of the issues presented by this litigation, but asks that the Court dismiss the litigation to avoid the risk of "inconsistent

adjudications." A related dispute has been pending before the NLRB since August 23, 2007. Since the parties' motion for summary judgment in this action will not be fully submitted until September 12, 2008, the NLRB will have had more than one year to rule before the issues in this litigation are fully submitted to this Court.

Having reviewed the parties' submissions, it is hereby ORDERED that the April 30, 2008 motions to dismiss and for sanctions are denied.

SO ORDERED:

Dated: New York, New York
June 13, 2008



DENISE COTE
United States District Judge